



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms
Washington, D. C. 20226

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SHIPMENTS OR DELIVERIES OF FIREARMS TO INDIVIDUALS IN CONTIGUOUS STATES PROHIBITED

Members of the Firearms Industry and Other Persons Concerned:

The Bureau has issued a ruling addressing whether a nonlicensee who purchases a rifle or shotgun from a licensee in a contiguous State must take delivery of the firearm in the State wherein the licensee's premises is located, or whether the licensee could lawfully ship the firearm in interstate commerce to the unlicensed purchaser. The Ruling will appear in the next issue of the Alcohol, Tobacco and Firearms Bulletin, and will be substantially as follows:

Section 922(a)(3)(B) of Title 18, United States Code, allows a nonlicensee to acquire a rifle or shotgun from a licensee whose business is in a contiguous State if the acquisition is in accordance with Section 922(b)(3)(A). Section 922(b)(3)(A) allows a Federal firearms licensee to make a sale or delivery of a rifle or shotgun to an unlicensed resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence permits such sale or delivery by law; the sale fully complies with the legal conditions of sale in both contiguous States; and the purchaser and the licensee have, prior to the sale or delivery for sale of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee's business premises.

These statutes do not address the actual transfer or delivery of the rifle or shotgun to the nonlicensee. However, section 922(a)(2) provides that it is unlawful for a licensee to ship or transport in interstate or foreign commerce any firearm to any person other than another licensee. The statute makes no exception for the shipment of firearms sold under the contiguous State provisions.

Section 922(c) provides for a delay of the shipment or delivery of a firearm sold to a nonlicensee who does not appear in person at the licensee's business premises. While the procedures prescribed by section 922(c) apply to contiguous State transactions as well as to non-over-the-counter, intrastate sales, the use of the language "shipment or delivery" in this section does not authorize the interstate shipment or delivery of firearms and is expressly limited to cases "not otherwise prohibited by this chapter ***." Moreover, the report of the Senate Judiciary Committee on the Gun Control Act related that the contiguous State sale provision was not intended to affect the prohibition in section 922(a)(2) pertaining to licensees' interstate shipment or transportation of firearms to nonlicensees. Senate Report 1501, 90th Congress, 2d Session, pages 24, 34 (1968).

Therefore, the Gun Control Act does not authorize a licensee selling a rifle or shotgun to a nonlicensee under the contiguous State provisions to ship, transport or deliver the firearm in interstate commerce to the purchaser. In order to effect a lawful delivery of such a firearm, the firearm must either be delivered to the purchaser in the State in which the seller is licensed to do business, or be delivered to a licensee in the purchaser's State of residence from whom the purchaser may acquire the firearm.

Inquiries concerning this circular should refer to its number and be addressed to the Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, P.O. Box 189, Washington, DC 20226.

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